

AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to FIGS. 1 and 2. These sheets, which include FIGS. 1-4, replace the original sheets including FIGS. 1-4.

Attachment: Replacement Sheets (2 pages)

REMARKS

The Office Action mailed January 31, 2005 has been carefully reviewed along with the references cited therein. In the subject Office Action, the Examiner objected to the drawings for failing to include reference numerals 46 and 48. The Examiner also objected to FIG. 2 indicating that the leftmost occurrence of no. 40 is incorrect. Also, the Examiner objected to the drawings because reference numeral 86 had been used to designate two different components. Finally, the Examiner indicated that the figures do not show that the opening in the plate is larger than the entry opening, as recited in claim 18.

As for the claims, the Examiner rejected all the pending claims, claims 1-19. Claims 12 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Claims 1-17 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lehn (U.S. Patent No. 2,534,358). Claim 1, 2, 7, 9, 11, 12, 14-17 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Engstrom (European Patent No. 954,964). Claims 1-17 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kania (U.S. Patent No. 4,425,732). Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lehn in view of Killinger (Canadian Patent No. 694,163). Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lehn. Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Engstrom in view of Killinger. Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kania in view of Killinger. Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kania.

Drawing Objections

To overcome the Examiner's objections to the drawings, reference numerals 46 and 48 have been added to FIG. 1 and a replacement sheet reflecting those changes accompanies this amendment. FIG. 2 has been amended so that the leftmost occurrence of reference numeral 40 has been amended to show the numeral 100, as suggested by the Examiner. A second replacement sheet with the amended FIG. 2 accompanies this amendment. FIG. 1 has also been amended such that the first cylinder is denoted by reference numeral 88 and the second cylinder is denoted by reference numeral 90. The

specification has been amended to bring it into conformance with amended FIG. 1. Claim 18 has been cancelled from the pending application without prejudice.

Claim Rejections

The Examiner rejected claim 12 considering the claim vague and indefinite since it is unclear how the striker exactly passes the trigger with regard to the phrase "to a side of the trigger." Applicant respectfully directs the Examiner's attention to the embodiment of FIG. 1 which shows a striker 40 and a trigger plate 80. Without being bound to the exact embodiment disclosed in FIG. 1, the striker 40 is retained by rotating the striker 40 toward and around the trigger plate 80, as described at page 6, lines 10-11 in Applicant's disclosure. Accordingly, a portion of the striker, e.g. side legs 46 and 48, pass to a side of the trigger 80. Accordingly, Applicant respectfully asserts that it is clear how the striker passes the trigger with regard to the phrase "to a side of the trigger." Applicant, therefore, respectfully requests that the Examiner remove the § 112, second paragraph rejection.

Claim 18 was also rejected under § 112, second paragraph. Claim 18 has been cancelled without prejudice from the present application so that it may be pursued in a continuation application, if desired.

Claim 1 was rejected as being anticipated by three separate references: Lehn, Engstrom, and Kania. Claim 1 has been amended to recite "a first opening in said at least one side wall through which an associated animal can enter and a second opening in said at least one side wall, spaced from the first opening through which the associated animal can see so that its burrow appears uninterrupted" and "wherein the trigger is positioned in a manner such that the animal's burrow appears uninterrupted." Support for this limitation can be found in Applicant's disclosure at page 5, lines 28-30.

Lehn discloses an actuating arm 39 disposed in what would be considered the animal's run. As evident from FIG. 2, the actuating arm 39 makes the animal's run appear interrupted, and therefore may inhibit an animal from entering the trap. Behind each of the four actuating arms 39 in Lehn is a centrally positioned spring guide 52. Furthermore, it would not be obvious to modify Lehn such that it did not include the spring guide. Such a configuration would inhibit setting of the trap which would destroy the intended function of Lehn.

Engstrom fails to disclose a second opening through which the associated animal can see that its burrow appears uninterrupted. The openings that the Examiner contends to be second openings in Engstrom do not allow the animal to see that its burrow appears uninterrupted. End wall 17 is opposite Engstrom's entry opening 16. Supported on the end wall is the driver end 19 of the spring 3 and the retaining hook 5, not to mention the coil of spring 3. Thus, removal of enough of the end wall 17 to make the burrow look uninterrupted is not possible in Engstrom. Accordingly, Engstrom provides no motivation to provide such openings and therefore it would not have been obvious to modify Engstrom in such a manner.

Likewise, Kania fails to disclose a second opening through which the associated animal can see that its burrow appears uninterrupted. Furthermore, Kania provides no motivation to provide such a second opening, as the bait compartment 15 stands in the way, and therefore cannot be modified in such a manner.

It is respectfully submitted that claim 1 now patentably defines over the references cited by the Examiner. Accordingly, claims 2-8, which depend from claim 1, also patentably define over the cited references.

Claim 9 has been amended to recite "a second opening aligned with the entry opening" and positioning the trigger "such that the animal's run appears uninterrupted between the entry opening and the second opening." Even though claim 9 does not have the same scope as claim 1, it includes limitations similar to those discussed above with reference to claim 1 and therefore patentably defines over the cited references for the reasons stated above with regard to claim 1. Accordingly, it is submitted that claim 9 patentably defines over the cited references, and claims 10-13, which depend from claim 9, also patentably define over the cited references.

Claim 14 has been amended to recite "a plurality of moveable components, wherein none of the moveable components extend from the housing." Applicant's animal trap, as recited in claim 14, can be used for trapping animals in the animal's burrow, which, by definition, is underground. "Burrow" is defined as "a hole or tunnel dug in the ground by a small animal such as a rabbit or mole..." (Webster's II New Collegiate Dictionary). When such a trap is used underground, the movement of any components located outside of the housing would be hindered by the soil adjacent the animal trap.

Lehn discloses a moveable setting button 14 that is disposed above the trap housing 2. Any movement of this button when the animal trap is placed in an animal burrow would be impeded by the soil above the burrow, which would destroy the intended function of Lehn. Engstrom discloses a handle 4 connected to the impact clamp 2, which handle extends from the housing 1, as seen in FIG. 2. Accordingly, movement of the impact clamp 2 would be hindered by any soil located adjacent the housing 1 through which the handle 4 would have to travel when the impact clamp is released. Engstrom fails to provide any motivation to modify its construction such that the handle would be located inside the housing 1. Kania discloses a spring 28 located outside the housing 10, and movement of the spring would be impeded by soil located adjacent the housing if the trap were to be used underground. Accordingly, Kania provides no motivation to provide the moveable biasing member inside the housing.

As shown above, claim 14 as amended patentably defines over the cited references. Since claim 14 is patentable the dependent claims, specifically claims 15-17 and 19 are also patentable.

CONCLUSION

For the reasons detailed above, it is submitted that all claims remaining in the application are now in condition for allowance. Accordingly, an early indication of the same is earnestly solicited. In any event, should the Examiner consider personal contact advantageous to the disposition of this case, he is encouraged to telephone the undersigned at the number listed below.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

May 2, 2005
Date


Jay F. Moldovanyi, Reg. No. 29,678
Jonathan A. Withrow, Reg. No. 54,548
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579
(216) 861-5582